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RUEHLP/AMEMBASSY LA PAZ FEB LIMA 2397
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RUEHMN/AMEMBASSY MONTEVIDEO 2234
RUEHSN/AMEMBASSY SAN SALVADOR 2064
RUEHDG/AMEMBASSY SANTO DOMINGO 0210
RUEHTG/AMEMBASSY TEGUCIGALPA 0531
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C O N F I D E N T I A L QUITO 000197

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TAGS: [EINV](#) [ECON](#) [EC](#)

SUBJECT: SUBJECT: ECUADOR LOOKING TO TERMINATE INVESTMENT
TREATIES WITH SMALL INVESTMENT PARTNERS ON MUTUALLY AGREED
TERMS

REF: A. 07 QUITO 1045

[1](#)B. 07 QUITO 2626

Classified By: Classified by DCM Jefferson Brown. Reason: 1.4 b and d
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[1](#)1. (C) Summary. Ecuador will attempt to negotiate early termination of its bilateral investment treaties (BITs) with nine small countries, according to the Foreign Ministry's Under Secretary for Trade. In the interim, all of Ecuador's BITs remain in force. In response to the Foreign Minister's statement that Ecuador wants to renegotiate its BITs with larger partners, including the United States, he said that Ecuador is not ready since it is still working on its new model BIT. End summary.

[1](#)2. (U) On January 30, a news article reported that Foreign Minister Maria Isabel Salvador said that Ecuador denounced its bilateral investment treaties (BITs) with nine minor investing partners: Romania, Cuba, El Salvador, Honduras, Guatemala, Nicaragua, Dominican Republic, Paraguay and Uruguay. The article also reported that Ecuador was planning to renegotiate its BITs with major investing partners, including with the United States.

[1](#)3. (C) EconCouns reviewed the article with Mentor Villagomez, Under Secretary for Trade at the Foreign Ministry. Villagomez made three points. One, all of Ecuador's BITs remain in force. Two, Ecuador had notified the nine smaller BIT partners that it wants to discuss the status of the BITs with its partners. Three, it is premature to discuss renegotiating BITs with Ecuador's larger investment partners, including with the United States, since Ecuador has not yet finalized its new model BIT.

[1](#)4. (C) Villagomez said that in reviewing its BITs, it was apparent that BITs are only a small element in attracting investment, since investment decisions are based on a wide array of factors. He noted, for example, that Colombia has fewer BITs than Ecuador but is attracting more foreign investment. As a result, Ecuador does not see any benefits in maintaining BITs with small investment partners.

[1](#)5. (C) Villagomez clarified that with the nine identified BITs, Ecuador plans to explore with its partners whether they

will mutually agree to terminate the BITs early. Villagomez stressed that if the BITs are terminated, the GOE would continue to respect any protections that remain in force after termination.

¶6. (C) Villagomez did not speculate much on the key elements of Ecuador's forthcoming "model BIT," but he did suggest that Ecuador would probably want to make use of the new arbitration forum that Ecuador hopes to establish in South America. He said that Ecuador is in initial discussions with other South American countries about establishing a regional arbitration body.

Comment

¶7. (C) Ecuador has been conducting an interagency review of its BITs for several years, a process that began before the Correa Administration took office. The process received public attention in May, 2007, when then-Foreign Minister Espinosa publicly stated that Ecuador would terminate its BIT with the U.S., then clarified that the BIT would remain in force while the GOE reviewed all of its BITs (reftel a). The review seemed to be on a backburner for a while, but we understand that the process was revived in December, when President Correa asked for an update (reftel b). We now seem to be seeing the beginning of the second phase of the review process.

¶8. (C) Although our Foreign Ministry contacts have not said so explicitly, our impression is that they are not enthusiastic about attempting to change Ecuador's BITs, believing that the efforts will not go far and could send

negative messages about Ecuador's investment climate. However, the Correa administration has reservations about submitting to international arbitration (most notably the World Bank's ICSID process, which they believe is biased toward developed countries), and all of Ecuador's BITs include international arbitration provisions. Our view is that the Correa Administration believes that it needs to do something about the BITs, and the Foreign Ministry is attempting to carry out its instructions in a careful, pragmatic manner. The issue of revising Ecuador's BITs will continue to come up, but we expect it will be a slow-moving process, especially since the GOE's hoped-for regional arbitration body does not yet exist as a functioning alternative to current options.

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